

TITLE 31 - DEPARTMENT OF AGRICULTURE, DIVISION OF POULTRY AND
AND EGG DEVELOPMENT

Chapter 1 - POULTRY MARKETING REGULATIONS

001 Committee Membership.

001.01 Regular Members. The regular members of the Nebraska Poultry and Egg Development, Utilization and Marketing Committee shall be duly elected directors of Nebraska Poultry Industries, Inc., hereinafter referred to as NPI.

001.02 Ex Officio Members. Ex officio members of the committee shall not have the right to vote, but may fully participate in the affairs of the committee.

The ex officio members of the committee shall be as follows:

001.02A The Director of Agriculture, or his designee,

001.02B The Vice Chancellor of the University of Nebraska's Institute of Agriculture and Natural Resources, or his designee,

001.02C The Chairman of the University of Nebraska's Department of Poultry and Wildlife Sciences, or his designee,

001.02D The Extension Poultryman of the University of Nebraska's Department of Poultry and Wildlife Sciences, or his designee.

001.02E The General Manager of NPI, or his designee, and

001.02F All members of NPI who hold positions with national level poultry or egg organizations, or their designees.

001.03 Alternates. Regular members of the committee shall be authorized to appoint alternates to attend and participate at meetings and perform other designated activities. To be effective, the actions taken by an alternate on behalf of the regular member shall not be inconsistent with the expressed instructions or guidelines of the regular member.

002 Officers.

002.01. The committee offices shall be President, First Vice-President, Second Vice-President, and Secretary-Treasurer. The officers of the committee shall be those duly elected directors of NPI holding comparable offices with NPI.

002.02. The President of NPI shall act as chairman of the committee. In the absence of the President, the First Vice-President shall so act. In the absence of the President and the First Vice-President, the Second Vice-President shall so act.

003 Chief of the Division. As authorized by the Act, the Director may appoint a Chief of the Division of Poultry and Egg Development, Utilization and Marketing. It shall be the responsibility of the Chief to conduct the affairs of the Division in the manner prescribed by the Director of Agriculture, with the advice of the committee. Such duties and responsibilities shall include, but not be limited to the following:

003.01. General administration of the provisions of the Act,

003.02. Coordination of activities between the Department of Agriculture and the committee, and

003.03. Assisting the committee in its functions, including, but not limited to, those matters set forth in this rule.

In the absence of a duly appointed Chief, the Director may appoint a qualified member of the Department staff to perform the functions of the Chief, or may, himself, act as the Chief.

004 Meetings.

004.01 Dates. Regular meetings of the committee shall be at least once every three months. Special meetings of the committee may be called at such times as are authorized by the Nebraska Poultry and Egg Resources Act, hereinafter referred to as the Act. During each regular meeting, the date of the next regular meeting shall be set.

004.02 Notice.

004.02A. Appropriate notice of all meetings shall be given by the Chief of the Division, hereinafter referred to as the Chief. The Chief shall individually notify all regular and ex officio committee members of the date, time, place, and purpose of all meetings as far in advance as possible. In the case of special meetings, the person or persons calling such meetings shall immediately notify the Chief, so that the Chief can appropriately notify the members of the committee.

004.02B. Public notice of all meetings shall be given by the Chief in the manner prescribed by the Public Meetings Law (Chapter 84, article 14, R.R.S., Nebraska, 1943, as amended). The Chief shall maintain a list of news media representatives, named by the committee, to be sent notice of all meetings. The committee shall see that news media personnel specifically requesting notice shall be included on the list. The Chief shall mail a copy of a notice of each meeting to those names on the news media list maintained, which notice shall meet the requirements of the Public Meetings Law.

004.03 Agenda. It shall be the responsibility of the Chief to maintain a current agenda, prior to each committee meeting, of the subjects to be discussed at the next meeting. The officers of the committee shall provide the Chief with the content of the agenda as soon as such is known.

004.04 Regular Business. At each meeting of the committee, the following items shall be included:

004.04A. The minutes of the previous meeting shall be approved,

004.04B. The Chief shall give a report of the activities of the Division,

004.04C. The Chairman of the Budget Subcommittee shall give a budget report,

004.04D. The Chairman of the Research Subcommittee shall give a report of the research activities,

004.04E. The Chairman of the Promotion Subcommittee shall give a report of the promotion activities,

004.04F. The Chief shall present all refund applications for committee consideration, and

004.04G. The date of the next regular meeting shall be established.

004.05 Presiding Officer. The acting chairman shall be the presiding officer at all committee meetings.

004.06 Rules of Order. The committee shall conduct its business in accordance with Robert's Rules of Order, Revised, insofar as they are consistent with this rule. The chairman may appoint a parliamentarian at any time, or when requested to do so by any regular member.

004.07 Public Participation. An amount of time, not in excess of thirty (30) minutes, shall be made available at each regular meeting of the committee, during which members of the public may express their views on matters relevant to committee business. Members of the public may also participate in committee discussions, unless otherwise directed by the chairman or any three members of the committee. The committee shall also give consideration to correspondence received from members of the public expressing views on matters relevant to committee business.

004.08 Minutes. Accurate minutes shall be kept of each meeting of the committee by a person designated by the chairman. Minutes shall be kept in the manner prescribed by the Public Meetings Law, and maintained by the Chief.

004.09 Quorum. The presence of a majority of the regular members of the committee shall constitute a quorum for the purpose of conducting official business. Motions on matters exercising the authorities listed in section 7 of LB 514 (Eighty-Fourth Legislature, Second Session, 1976) shall require the affirmative vote of a majority of the regular members of the committee for passage. Motions on all other matters shall require the affirmative vote of a majority of the regular members present for passage.

004.10 Voting. All voting shall be conducted in the manner prescribed by the Public Meetings Law.

005 Subcommittees.

005.01 Budget. The President shall annually, at the first meeting of the calendar year, appoint three regular members of the committee to serve on a Budget Subcommittee, which subcommittee shall also include the Chief. It shall be the responsibility of this subcommittee to oversee the fiscal affairs of the committee, provide reports of the committee on such affairs as prescribed, and prepare the committee budget as follows:

005.01A. On or before the first day of May of each year, a budget shall be prepared covering the period beginning on the first day of July of that year and ending on the 30th day of June of the following year. Such budget shall include anticipated revenue and estimated expenses by major category.

005.01B. On or before the first day of August of each year, a budget shall be prepared covering the period beginning on July 1 of the following year and ending on the next following June 30. Budget content shall be as prescribed in 31NAC1-005.01A.

005.02 Research. The President shall annually, at the first meeting of the calendar year, appoint three regular members of the committee to serve on a Research Subcommittee, which subcommittee shall also include the Chief. It shall be the responsibility of this subcommittee to oversee the research activities of the committee, provide reports to the committee on such activities, and make recommendations to the committee regarding the relative advantages and disadvantages of particular research activities.

005.03 Promotion. The President shall annually, at the first meeting of the calendar year, appoint three regular members of the committee to serve on a Promotion Subcommittee, which subcommittee shall also include the Chief. It shall be the responsibility of this subcommittee to oversee the promotion activities of the committee, provide reports to the committee on such activities, and make recommendations to the committee regarding the relative advantages and disadvantages of particular activities.

005.04 Other

005.04A. The President may appoint subcommittees in addition to the subcommittees listed above, the responsibilities of which may involve education, publicity, market development, or other relevant matters. The size, composition, term and areas of responsibility of such additional subcommittees shall be comparable to those of the research and promotion research and promotion subcommittees.

005.04B. The President may also appoint special subcommittees to handle particular short-term limited tasks of the committee, when needed.

005.04C. Nothing contained herein shall prevent the President, or any other officers, from serving on any subcommittee. No person, other than the Chief, shall serve on more than one regular subcommittee.

006 Hearings. The committee may conduct public hearings for any purpose consistent with its responsibilities. The conduct of such hearings shall be as follows:

006.01 Notice. Notice shall be given of all public hearings held by the committee. The notice shall be published at least once either in a newspaper of general circulation in the area affected by the business of the hearing, or in a newspaper of general circulation in the state, and the publication shall be made at least ten (10) days prior to the date of the hearing. Such notice shall contain the date, time, place, and purpose of the hearing.

006.02 Procedure. The Director or his designee shall serve as hearing officer. The hearing officer may appoint a hearing examiner to assist in the conduct of the hearing. The hearing officer or examiner shall, among other things, open the proceedings, enter into the record the notice of the hearing, take appearances, receive exhibits, ask or answer questions, or call upon other persons to ask or answer questions, and close the proceedings. No person shall be required to be sworn in prior to presenting any evidence, which may consist of oral or written comments or documents. All persons presenting evidence shall state their name, address, and the organization they represent, if any. All evidence shall be directed to the business of the hearing and may be excluded by the hearing officer or examiner if cumulative, repetitive, or irrelevant.

006.03 Record. A record shall be made of all hearings, with all testimony and evidence presented being a part thereof. The record, which may be in the form of a tape recording or shorthand notes, shall accurately reflect the substance of the hearing. The record may be held open for a designated period of time, at the discretion of the hearing officer, for submission of any testimony or evidence not available at the time of the hearing. The hearing shall be closed at the completion of the designated time.

007 Fees.

007.01. The fees set forth below are those applicable following the effective date of this rule and shall remain in effect until July 1, 1978. On or before July 1, 1978, and annually thereafter, new fees shall be established or the current fees reaffirmed.

007.02. Initial fees shall be as follows:

007.02A. Three cents (3¢) per case of eggs.

007.02B. Two cents (2¢) per tom turkey.

007.02C. One and one-half cents (1 1/2¢) per hen or fryer turkey.

008 First Purchaser Recordkeeping.

008.01 Maintenance. First purchasers of eggs or turkeys shall maintain records of all such purchases, which records shall show the following:

008.01A. The name and address of the producer,

008.01B. The date of purchase,

008.01C. The quantity of eggs or turkeys sold, and

008.01D. The amount of fees collected on each purchase.

Such records shall be maintained for a period of at least two (2) years and shall be open for inspection during normal business hours. Maintenance of customary settlement forms or check stubs shall be deemed sufficient to meet the requirements of this provision.

008.02 Filing. First purchasers of eggs and turkeys shall be provided with forms for filing which, when filed, shall show the quantity of eggs and turkeys purchased during the applicable filing period, which periods are as follows:

008.02A. First purchasers of eggs, who routinely purchase eggs from three thousand bird flocks or more, shall monthly file a statement of the quantity of eggs purchased during the preceding month. Such statement shall be on file by the fifteenth day of the month, and shall be accompanied by the fees collected during the period of time covered.

008.02B. First purchasers of eggs, who do not routinely purchase eggs from three thousand bird flocks or more, shall quarterly file a statement of the quantity of eggs purchased during the preceding quarter. Such statements shall be filed by the fifteenth day of the months of January, April, July, and October, and shall be accompanied by the fees collected during the period of time covered.

008.02C. First purchasers of turkeys shall monthly file a statement of the number of turkeys purchased during the preceding month. Such statement shall be on file by the fifteenth day of the month and shall be accompanied by the fees collected during the period of time covered. Filings of statements and fees shall be made to:

Chief of the Division of Poultry and Egg Development Utilization and Marketing

Nebraska Department of Agriculture

P.O. Box 94912 - State House Station

Lincoln, Nebraska 68509

009 Exemptions. First purchasers of eggs whose annual average weekly volume of purchases is less than five thirty-dozen cases per week are hereby exempt from the requirements of the Act regarding the collection of fees. Such purchasers shall, however, maintain records as required by the provisions of 31 NAC 008.01.

010 Refunds.

010.01 Application. Producers desiring refunds shall make written application to the Chief at the address shown at 31 NAC 008, above. To be effective, a refund request must contain the following:

010.01A. A written demonstration of a desire to have all or part of a fee paid, refunded, and

010.01B. Proof that a fee has been deducted by a first purchaser, in the form of a copy of a settlement form or check stub, clearly indicating the nature, purpose and amount of fee deducted, and the date deducted.

Applications must be received within sixty days of the date of assessment.

011 Effective Date. This rule shall be effective five days after it has been filed with the Revisor of Regulations as provided by the Administrative Procedures Act.

012 Annotation. Neb. Rev. Stat. §§2-3401 to 2-3416.